

APPEAL NO. 042289
FILED OCTOBER 29, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 19, 2004. The hearing officer determined that: (1) the compensable injury of _____, includes the right wrist, right elbow, and the diagnosis of reflex sympathetic disorder/complex regional pain syndrome, but it does not include the left wrist, right shoulder, or brachial neuritis; and (2) the respondent (claimant) is entitled to temporary income benefits for the period from March 19 through April 6, 2004, because she had good cause for failing to submit to the required medical examination on March 19, 2004. The appellant (carrier) appeals the adverse determinations on sufficiency of the evidence grounds. The claimant urges affirmance.

DECISION

Affirmed.

The carrier asserts that the hearing officer erred by making an underlying finding of fact that the claimant sustained a compensable injury on _____. We note that in Texas Workers' Compensation Commission Appeal No. 031034, decided June 18, 2003, the Appeals Panel affirmed the hearing officer's determination that the claimant sustained a repetitive trauma injury with a date of injury of _____. The carrier asserts that the issue of compensability has been appealed to the district court and has not been finally adjudicated. Section 410.205(b) provides that the decision of the Appeals Panel regarding benefits is binding during the pendency of judicial review. Accordingly, we perceive no error.

The hearing officer did not err in making the complained-of determinations. The determinations involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Nor can we conclude that the hearing officer abused his discretion in reaching his decision. Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986).

The decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Margaret L. Turner
Appeals Judge